

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 98-413-C - ORDER NO. 98-968

DECEMBER 4, 1998

IN RE:	Application of VoiceMagic, Inc. and)	ORDER RULING	/MR
	VoiceMagic Telecommunications, Inc. for a)	ON MOTIONS	
	Certificate of Public Convenience and)		
	Necessity to Operate as a Competitive Local)		
	Exchange Carrier and as a Reseller of)		
	Interexchange Telecommunications Services)		
	within the State of South Carolina.)		

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motions of VoiceMagic, Inc. and VoiceMagic Telecommunications, Inc. (collectively VoiceMagic or the companies) to Dismiss the South Carolina Telephone Association (SCTA) as an Intervenor, and to Strike the prefiled testimony of SCTA witness Jerry Hendrix. SCTA has filed a response to the Motions.

First, VoiceMagic moves to dismiss SCTA as an Intervenor on the grounds that SCTA failed to delineate with specificity its position in this case in its Petition to Intervene as is required by our Regulations. VoiceMagic complains that it was prejudiced because it did not know SCTA's actual position in the matter until SCTA prefiled its testimony. SCTA stated in its Petition that it had not fully formulated a position in the Docket. We hold that no prejudice resulted to VoiceMagic. SCTA, in prefiling its testimony, fully informed VoiceMagic of its position in the matter in advance of hearing. This enabled VoiceMagic to formulate and prefile rebuttal testimony. Since no prejudice resulted, we deny VoiceMagic's Motion to Dismiss.

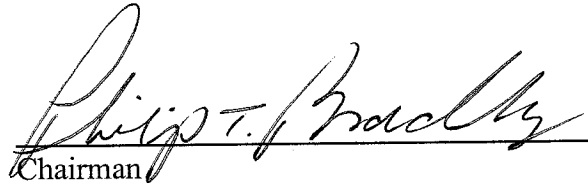
The companies also moved to strike the testimony of SCTA witness Jerry Hendrix on two grounds. The first ground was that, according to VoiceMagic, Hendrix requested that the Commission order VoiceMagic to sign interconnection agreements before it received its certification, a condition precedent not required of other competitive local exchange carriers (CLEC's). We find no such language in Hendrix' testimony. We therefore deny this portion of the Motion to Strike.

The second ground for the Motion to Strike was that Hendrix requested that the Commission make a policy decision that the use of IP Telephony or Voice Over Internet Protocol is subject to access charges, and that VoiceMagic be required to pay access charges when using this technology prior to certification. We think that this question has far-reaching ramifications, both on an interstate and intrastate basis. We note that the Federal Communications Commission (FCC) is supposed to reach a decision on this subject for the interstate jurisdiction soon. On an intrastate basis, we as a Commission are hesitant to consider such a broad topic and make a decision within the confines of this one certification proceeding. A number of other parties would likely be interested in participating and expressing views prior to any decision that we may make.

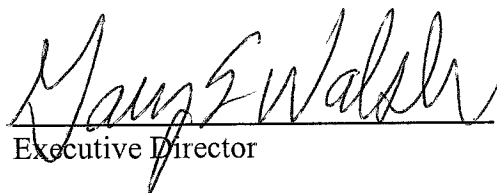
We therefore grant this portion of the Motion to Strike. All of Hendrix' testimony related to the payment of access charges and IP Telephony or Voice Over Internet Protocol is hereby stricken. We also hereby order, however, that a generic docket be established to consider the issue of IP Telephony as soon as possible, so that we may fully examine this far-reaching topic.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)